

4 DEC 1987

OCA FILE LEGS

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MEMORANDUM FOR: [] Legislation Division
Office of Congressional Affairs

VIA: Deputy Director of Personnel for
Compensation, Automation, and Planning

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FROM: []
Office of Personnel for Compensation,
Automation, and Planning

SUBJECT: Minimum Health Benefits for All Workers Act of 1987, S. 1265

REFERENCE: OCA Memo to DD/OP/PA&E, dtd 6 November 1987, same subject

1. In response to reference, we have reviewed subject bill and foresee several problems if S. 1265 is passed in its present form. The bill requires employers to enroll all employees and their families in a health benefit plan covering inpatient and outpatient hospital care, inpatient and outpatient physician services, diagnostic and screening tests, and prenatal and well-baby care. Although employees may be required to pay for premiums, deductibles and coinsurance under the plan, these amounts may not exceed the limitations imposed in the bill. The term "employer" includes any employer required to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act (FLSA) as well as any State or political subdivision, agency or instrumentality thereof. It is unclear whether we, as a federal agency, meet the definition of "employer" in section 303(3). We therefore recommend that the definition be clarified. However, we are responding to you based on the assumption that the bill applies to the Federal Government.

2. The provisions of the bill would have a direct impact upon the Federal Employees' Health Benefits Program (FEHBP). For one, in defining "employee" in section 303(2) as an individual who performs 17 1/2 hours of service per week for an employer, the bill provides a more expansive definition than that of employee under FEHBP which, for example, requires that employees be appointed. Further, the problems listed below should be considered and weighed as they would apply to any Federal agency or FEHBP plan:

° Budgetary issues:

- The additional cost of providing health insurance to approximately [] employees who presently are not insured through FEHBP (currently a savings to the Agency).

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- ° Restrictions on rate setting and benefit design:
 - By placing a limitation on deductibles, copayments, and out-of-pocket limits, we would lose the flexibility to maintain our rates at the level we desire through benefit design. In addition, we would be restricted to levels of benefits that may not work in a flexible benefits program. For example, under this bill we would not be permitted to offer a plan with a copayment of 75 percent (currently offered by Blue Cross Standard Option).
- ° Forcing new enrollment categories may have a negative impact on the rate.
 - If each enrollment category were experience rated separately, and utilization were higher for certain categories, rates would have to be increased accordingly.
- ° Requirement to provide coverage we may not need or want.

3. We bring to your attention section 302 of the bill, which provides for coverage of family members and attempts to avoid duplicate family coverage. The language of section 302(b), when read in conjunction with subsection(a), creates a duplication of spousal coverage we believe was not intended by the drafters. Section 302(b) states that an employee may waive enrollment in a health benefit plan for the spouse or a child of the employee only if the spouse or child is covered in a plan provided by the employer of the spouse or child. Further, a child who is employed may waive enrollment in his employer's plan if he is already covered under his parent's employer's plan. However, pursuant to section 302(a), an employee may not waive enrollment of himself in a health benefit plan. If both spouses are employed, this last prohibition would require each one to be covered separately under his respective employer's health plan. This would have an adverse impact upon the meeting of deductibles, copayments, and out-of-pocket expenses. This prohibition also raises the question as to whether an employer for whom both spouses work must enroll both spouses separately rather than as a family. In addition, employers could end up paying more than necessary for health insurance if an employee does not choose to waive enrollment for a spouse or child already covered under the spouse's employer's plan.

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